

MEETING SUMMARY for MERCURY WORK GROUP

Date: October 8, 2003
9:30 am –11:30 am
Location: IGCN
Conference Room D
Indianapolis, IN

Present at the meeting:

John Chavez (Indianapolis), John Fekete (Ispat Inland Steel), Eric Fry (Black Beauty Coal), and Tom Neltner (Improving Kids' Environment).
Participating by way of conference call were Tom Barnett (Ispat Inland Steel), Robin Garibay (The Advent Group), Matt Gluckman (EPA), Kevin Hoge (NiSource), Tim Lohner (AEP), Dave Pfeifer (EPA), and Charlotte Read (Save the Dunes Council).
Representing IDEM were John Donnellan, Mary Ellen Gray, Meredith Kostek, Steve Roush, Paula Smith, Bobbi Steiff, and MaryAnn Stevens.

Acceptance of meeting minutes

The September 10th meeting minutes were discussed. Tom Neltner requested inclusion in the minutes of clarification of a statement he made. These minutes will be modified as requested and posted to the mercury website.

First Notice Responses

The comment letters submitted during the first notice comment period have been summarized and IDEM will respond to the comments. The Response to Comments document will be part of the second notice when the draft rule is published for the next comment period.

Conclusions made prior to the workgroup meeting:

Applicability: the streamlined mercury variance (SMV) will be available to dischargers who are eligible for an individual variance.

The elements of the streamlined mercury variance application should be contained in a standardized application letter.

This rulemaking is not going to address modification of the mercury criterion, but the subject of changing the criterion is to be raised as a recommendation to the Steering Committee.

Discussion topics (conclusions noted with an *)

This workgroup meeting was spent discussing the policy question/answer document prepared by IDEM. The following relates to that document:

Question 1: Who is eligible for the streamlined mercury variance (SMV)?

Ideas considered include: (1) every discharger being eligible; (2) every discharger that does not handle bulk elemental mercury; and (3) those dischargers in SIC codes for which EPA has set mercury effluent limits.

John Fekete noted that there is no mercury in the steel making process but it may be present in the processing equipment.

Tim Lohner thought the eligibility ideas may end up penalizing industries that may have low mercury effluent but do handle bulk mercury.

Charlotte Read thought the eligibility would limit no one and the five year variance duration is too long to allow a discharger to have a variance from meeting a limit.

Steve Roush believes there is no benefit in excluding any discharger from getting a SMV. He thinks the energy should be placed on the mercury reduction efforts of the discharger not on trying to prove eligibility for a SMV.

Tom Neltner thinks the SMV should be available to dischargers handling bulk mercury, but those not making reasonable further progress (RFP) in reducing mercury from their discharge should have to apply for an individual variance.

The evolution of the eligibility question resulted in near agreement that the SMV should be available to all dischargers in the initial application, but at renewal, a second SMV would only be available to the dischargers that have shown RFP. Charlotte holds to the belief that dischargers should be put on compliance schedules. *

Question 2: There was no comment and all agreed the same variance requirements should apply both up and down state. *

Questions 3 and 4: Both questions relate to variance requirements. The evolution of the discussions resulted in the decision that the more important distinction is between industry and municipalities rather than large and small dischargers. *

Tom Neltner wants the rule to specify what a small discharger must do to satisfy SMV requirements, such as (1) do an inventory of mercury sources; (2) set up a spill control procedure; and (3) monitor mercury in the effluent. Tom does not want small dischargers to have to spend large amounts of money to hire a consultant to develop a Pollution Minimization Plan (PMP) for IDEM to review. He wants the PMP requirement applied to all dischargers, but the plan should be tailored specifically for each type discharger. Tom thinks complex facilities and large municipalities and industries should have to write their own PMP.

Robin Garibay asked why cooling water discharges were specified in question 4. She reminded the workgroup that the no net addition provision expires in March 2007 for the GLI rules though it does not expire down state. Robin said there is very little opportunity to accomplish mercury reduction from noncontact cooling waters (NCCW).

IDEM agreed to do more investigation into the NCCW subject. *

Question 5: New York has state laws allowing the regulation of dental offices, hospitals, and schools, but Indiana does not. While Indiana has general authority to regulate these type facilities that are not direct dischargers, IDEM does not want to undertake regulating these facilities without clear cut authority specified in state law. * The preferred route of regulation would be that municipalities regulate these indirect dischargers through their pretreatment programs and sewer use ordinances.

Tom Neltner dislikes the inconsistent treatment among dental offices, hospitals, and schools according to their location in large versus small municipalities and from aggressive versus lax local pretreatment program enforcement. Tom believes IDEM should rely on its general authority to regulate dental offices, hospitals, and schools at the state level.

Charlotte Read wanted to know from John Chavez if Indianapolis has a specific program to educate dental offices, hospitals, and schools. John replied that there isn't such a program but there is the

mercury collection program for central Indiana. He also said Indianapolis would have to modify its sewer use ordinance to include dental offices, hospitals, and schools.

Question 6: The question about needed items in a SMV application turned to the need for public notice of a SMV. The regulated community representatives are concerned for the extra workload on IDEM if a SMV is required to be public noticed. They think public notice of the discharge permit with a SMV included should be sufficient.

Tom Neltner is concerned about the slow down in approval of SMVs if citizens request public hearings. He believes the public notice opportunity related to a SMV should be focused on providing the public opportunity to offer proof or not on the eligibility aspects of a facility's SMV application.

Robin Garibay at the previous workgroup meeting on September 10, 2003, had offered to draft the items required for a SMV application, but she has been prevented from completing that task because the decision has been lacking on what dischargers will be eligible for a SMV.

Question 7: What are the specific required items regarding pollutant minimization?

Robin Garibay thinks they should be the same as required under GLI PMP.

John Chavez told the workgroup that EPA is presently working on a draft of requirements.

The one constant requirement is the identification of mercury sources. Also mentioned is employee education and public education. (NOTE: At the November 6, 2003 meeting, Matt Gluckman stated that EPA is working on guidance that states can utilize as a format for state regulation.)

Tim Lohner is concerned over the idea of public education. He doesn't want his facilities to have to go all along the Ohio River conducting unnecessary education programs.

Paula reminded the workgroup of Indiana's existing education materials and their accessibility.

Questions 8, 9, and 11: Discussion of these questions is held to the next meeting on November 6, 2003.

Next Step

Complete the policy question/answer document.

To Do List

1. Revise the policy question/answer document to reflect discussion of October 8th meeting. (MaryAnn)
2. Develop a definition of reasonable further progress. (Steve)
3. Investigate the NCW subject.

Next meeting

The next meeting is scheduled for November 6, 2003, from 9:30 to 11:30 A.M., in IGCN, Thirteenth Floor, Conference Room OLC1 (which is located in the east end of the building).